



**MITCHELL
SANDLER**

November 23, 2022

VIA ECF FILING

Honorable Nina Morrison
United States District Court Judge
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Courtroom 6E North
Brooklyn, New York 11201

RE: Agonath, et al. v. Interstate Home Loans Centers, Inc., et al.
Case: 2:17-cv-05267-NM-SIL

Request for Collective Decertification and Summary Judgment

Dear Judge Locke:

We represent the Defendants in the above-referenced matter. Pursuant to your Honor's Individual Rules, we write to request the Court's consideration of Defendants' Motion for Collective Decertification and Summary Judgment. Defendants' motions seek to decertify the Fair Labor Standards Act ("FLSA") collective action in accordance with 29 U.S.C. § 216(b), and the Court's order granting Summary Judgment under Rule 56. This letter sets forth the basis for Defendants' motions.

The small collective in the instant matter, is comprised of individuals whose sole resemblance to one another is that they were employed by Interstate and originated loans there. This factor does not satisfy the preponderance of evidence standard that Plaintiffs are required to bear to defeat decertification, as the Plaintiffs are not similarly situated. There are at least six permutations involving different exemptions and facts relating to each Plaintiff.

Summary judgment is appropriate on five (5) of the Plaintiffs' claims because they are exempt from the FLSA and the applicable New York Labor Law, Articles 6 and 19 (, and New York Codes, Rules and Regulations 142-2.2 ("NYLL"), or have already settled or litigated their claims. In addition, summary judgment is proper for Defendants on the minimum wage and overtime claims of at least five (5) of the Plaintiffs.

Lastly, collective treatment of all Plaintiffs would likely be prejudicial to some members of the class whose claims would be "bound" with others who are potentially less deserving and could impact the credibility of companion claims.

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Based on the above considerations, it is Defendants' position that this Court should grant its Motion for Collective Decertification and Summary Judgment.

Thank you, your Honor, for your time and consideration of these matters.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Katharine", with a long horizontal flourish extending to the right.

Katharine T. Batista